IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SIXTEENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

-

WRIT PETITION NO : 1247 of 1999

Between:

K.Raja Reddy, S/o K.Sanjeeva Reddy,

Kalepalle (Vil), Varalthur (PO), G.D.Nellore Mandal,

Nellore District.

..... PETITIONER

AND

1. The A.P.S.E.Board, rep. by its Member Secretary, Vidyut Soudha, Hyderabad.
2. The Chief Engineer (Electricity), APSEB, Nellore Zone, Vidyut Bhavan, Nellore-4.
3. The Superintending Engineer, Assessment Circle, APSE Board, Cuddapah.
4. The Assistant Divisional Engineer, APSEB, C.C.O., Chittoor.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of certiorari calling for the records relating to the proceedings of the 2nd respondent vide Lr. No. CEE: NZ. NLR. Coml.F.125/98/D.No.4071/98, dt. 23-12-98 confirming the orders of the 3rd respondent vide Lr.No.SE/A/CDP/FAD/D.CTR/F 29/97-98/D.No.31/98, dt.3-4-98 and to quash the same.

Counsel for the Petitioner: MR.C.V.NAGARJUNA REDDY

Counsel for the Respondents: SMT.M.VINOBHA DEVI

The Court made the following:

ORDER:

Heard both sides.

The petitioner, who is running a rice mill, seeks to assail the impugned orders dated 23.12.1998 passed by the second respondent confirming the order of the third respondent dated 30.04.1998.

The case arises out of certain irregularities found in the petitioner's rice mill during an inspection conducted on 09.02.1998 which was followed by notices dated 06.03.1998 and 17.03.1998. The petitioner has filed his representation on 16.04.1998. Thereafter the provisional assessment was made on 30.04.1998 estimating the value of the alleged pilfered energy at Rs.2,83,059/-. Aggrieved by the same, the petitioner has filed an appeal before the appellate authority, namely, the second respondent herein, and the same was dismissed on 23.12.1998.

The learned counsel appearing for the petitioner submits that in fact as per the MRT report, there is no tampering of the meter as alleged. In view of the same, no assessment can be made against the

petitioner. It is further submitted that in fact the petitioner has filed the said report before the appellate authority along with a letter dated 12.12.1998. However, the said report has not been taken into consideration even though it has got relevancy on the question involved.

Having considered the submissions made on either side and also on perusal of the material, it is seen that in the order of the appellate authority, the MRT report has not been taken into consideration. In view of the same, it is felt more desirable that the matter should be re-considered afresh after giving opportunity of hearing to the petitioner and also after taking into consideration the MRT report.

Accordingly the writ petition is allowed and the matter is remitted back to the second respondent for fresh disposal of the matter in accordance with law after giving notice and opportunity to the petitioner and also after taking into consideration the MRT report. The petitioner is at liberty to file further material, if any. No costs.

16.12.2004

VGB

That Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday, The Sixteenth Day of December, Two Thousand and Four.

To

1. The Member Secretary, A.P.S.E.Board, Vidyut Soudha, Hyderabad.

2. The Chief Engineer (Electricity), APSEB, Nellore Zone, Vidyut Bhavan, Nellore-4.

3. The Superintending Engineer, Assessment Circle, APSE Board, Cuddapah.

4. The Assistant Divisional Engineer, APSEB, C.C.O., Chittoor.

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